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QUESTION OF THE REALIZATION OF THE RIGHT TO DEVELOPMENT

Written statement submitted by the International Organization for the Development of Freedom of Education, a non-governmental organization in consultative status (category II)

The Secretary-General has received the following written statement, which is circulated in accordance with Economic and Social Council resolution 1296 (XLIV).

[2 February 1993]

INDICATORS OF THE RIGHT TO EDUCATION

1. The International Organization for the Development of Freedom of Education (OIDEL) considers that on the basis of the deliberations of the Seminar on appropriate indicators for measuring success achieved in the progressive realization of economic, social and cultural rights, the following conclusions may be drawn:

(a) The use of indicators may contribute to the realization of economic, social and cultural rights and to the evaluation of progress achieved in the progressive realization of these rights;

(b) It would seem important to seek new indicators and quality indicators particularly for the purpose of evaluating as accurately as possible the "progressive character" of economic, social and cultural rights; and

(c) Indicators must, however, be used with caution as they continue to be an imperfect yardstick.

2. With a view to the progressive evaluation of the right to education in its various aspects, OIDEL has established a Working Commission which has reached a number of conclusions.

3. In most of the studies undertaken in this area, the approach has been purely quantitative and considerably reduced the extent of the right to education as provided for in the International Covenant on Economic, Social and Cultural Rights.

4. Under article 13 of the Covenant, the right to education comprises several aspects, namely:

(a) The right to education, in other words, the right to receive training which, in accordance with paragraph 2, must take the following forms:

Primary education must be compulsory and free to all;

Secondary education must be made generally available and accessible to all by the progressive introduction of free education;

Higher education must be made accessible to all by the progressive introduction of free education;

Fundamental education must be intensified (efforts to combat inability to read and write);

The State must develop a system of schools and a fellowship system and must continuously improve the material conditions of teaching staff.

(b) The right to freedom of education, which comprises:

The right of parents or legal guardians to choose for their children schools other than those established by the public authorities;

The right of parents or legal guardians to ensure the religious education of their children in conformity with their convictions;

The right of individuals and bodies to establish and direct educational institutions.

5. The indicators established so far concern only paragraphs 1 and 2 of article 13 and take no account of the last two paragraphs, which refer to the right to freedom of education (see, for example, para.41 of document E/CN.4/Sub.2/1990/19). Indicators should accordingly be devised to measure the degree of freedom and its progressive development.

6. The Working Commission established by OIDEL has taken up this task with a will. We took the view that qualitative and quantitative elements should be combined. We thus envisaged graduating the degree of freedom on the basis of the following criteria:

(a) Legal possibility of founding schools "other than those established by the public authorities", in accordance with the terms of the Covenant, and directing such schools;

(b) Existence of religious and moral education in the school directed by the public authorities in the light of the various religions and convictions;

(c) Financing of schools "other than those established by the public authorities" on a basis of parity with State schools;

(d) Percentage of schools "other than those established by the public authorities" in the country in question.

7. It seems clear that, under the Covenant, the first degree of freedom consists of the possibility of legal existence for schools independent of the State. This first degree must not be regarded as a minimum threshold because this threshold is situated elsewhere, as we shall see. In order to translate this freedom into a right accessible to all (respect for the principle of equality and non-discrimination), it is essential that schools "other than those established by the public authorities" should be free of charge and, accordingly, financed by the public authorities. We consider that this is where the minimum threshold lies, because only from this point on does the right to freedom become a right for all. The method of financing might also reflect the degree of freedom granted, but this is a question that should be addressed later.

8. The actual percentage of schools "other than those established by the public authorities" would provide a means of evaluating the effectiveness of legislation and establishing a graduated scale. The number and growth of alternative schools will depend on the efforts of the State. In accordance with the Covenant, the State should play a seminal role "to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognised in the ... Covenant" (Covenant, art.2, para.1).

9. As to the right to receive training (see para.4 (a) above), commonly known as the right to education, we consider that the indicators should be more in keeping with the graduated system established in article 13, paragraph 2, of the Covenant, to which we have drawn attention above (para.4 (a)).